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Nos. 85-1377, 85-1378, 85-1379

Supreme Court, U.S.
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In the
Supreme Court of the United States

OCTOBER TERM, 1985

CHARLES A. BOWSHER, COMPTROLLER GENERAL OF THE UNITED STATES,
APPELLANT,
v.
MIKE SYNAR, MEMBER OF CONGRESS, ET AL.,
APPELLEES

UNITED STATES SENATE,
APPELLANT,
v.
MIKE SYNAR, MEMBER OF CONGRESS, ET AL.,
APPELLEES

THOMAS P. O'NEILL, JR., SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES, ET AL.,
APPELLANTS,
v.
MIKE SYNAR, MEMBER OF CONGRESS, ET AL.,
APPELLEES

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Motion For Leave To File Brief of Amicus Curiae Out of Time

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Mr. Edward Blankstein of Princeton, New Jersey, respectfully applies for leave to file a brief as *amicus curiae* out of time. As grounds therefor, the *amicus* states as follows:

A. The issues presented in these appeals involve the constitutionality of the Balanced Budget and Emergency Deficit Control Act of 1985 ("The Act"), Pub. L. No. 99-77, 99 Stat. 1037. The Act, insofar as it significantly alters the federal budget process, presents questions of substantial public importance.

B. The *amicus* is Director of Student Financial Aid at post-secondary institutions in 22 states. His concern is with the impact of spending reductions required by the Act on the Title IV Student Financial Assistance Programs, 20 U.S.C. 1001 *et seq*. The *amicus* processes over 30,000 individual student financial aid applications each year. The Title IV Student Financial Assistance Programs absorbed a reduction of $210.141 million for fiscal year 1986.

C. The Brief of *Amicus Curiae* Edward Blankstein was filed with the Clerk of this Court on Wednesday April 9, 1986; 40 copies of same were deposited in a United States Post Office, with first-class postage prepaid, properly addressed to the Clerk of this Court. In conformity with Rule 28.2 of the Rules of this Court, the Brief of *Amicus Curiae* Edward Blankstein was accompanied by a notarized statement of the undersigned, a member of the Bar of this Court, setting forth the details of the mailing. The brief was received by the Clerk the following day, Thursday, April 10, 1986.

D. In conformity with Rule 28.3 of the Rules of this Court, three copies of the Brief of *Amicus Curiae* Edward Blankstein were served by first-class mail, postage prepaid, on each party separately represented in these appeals. A Certificate of Service and an Affidavit of Service also accompanied the brief.

E. The Brief of *Amicus Curiae* Edward Blankstein was accompanied by consents to the filing of same duly executed by each party to these appeals in accordance with Rule 36.2 of the Rules of this Court.

F. The undersigned was not aware of and did not receive any notice of the Order of this Court which required the briefs of the appellees to be hand delivered to this Court by 3:00 P.M., and to the parties by 5:00 P.M. on April 9, 1986. The undersigned relied on the Memorandum To Counsel In Cases Granted Review of February 24, 1986 and the letter to counsel from the Clerk of the same date, neither of which specified that in-hand delivery was required.

G. The Brief of *Amicus Curiae* Edward Blankstein complies in all respects with the provisions of Rule 33 of the Rules of the Court.

H. The *Amicus* has contacted each of the parties to these appeals; each has stated that no objection will be interposed to the allowance of the within Motion.

I. The *amicus* respectfully states that its proposed brief advances arguments related to the separation of powers not addressed in the briefs of the parties in the district court and suggests a new approach to the delegation doctrine. Further, the brief provides information concerning the impact of fiscal year 1986 spending reductions mandated by the Act and the manner in which they were computed not found in the briefs of the parties below.

J. The *amicus* made a good faith attempt to comply will all Rules and Orders of this Court. The failure to comply with the

Order of this Court requiring delivery of briefs in-hand was the result of excusable oversight.

Respectfully submitted,

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Dated: April 11, 1986